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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,011	10/28/2003	Vaughn L. Bauer	2-5751-001	4258

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,011

Applicant(s)

BAUER, VAUGHN L.

Examiner

Alexandra K Pechhold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 11-14, 19, 20 is/are rejected.
7) ☐ Claim(s) 5-10 and 15-18 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3, 11-13, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hornung (US 3,791,673).**

Regarding claim 1, Hornung discloses a method of providing a forwardly folding toolbar, toolbar connected to a tongue seen as tongue (40) in Fig. 1, the method comprising:

(a) operably attaching a center section to the tongue of the toolbar at a substantially right angle, seen as sectional support beam (220 attached to tongue (40) in Fig. 1,

(b) operably pivotally attaching an inner wing section to each end of the center section, seen as (54) and (56) in Figs. 1 and 3,

(c) operably pivotally attaching an outer wing section to an outer end of each inner wing section, seen as (98) and (104) in Figs. 1 and 3,

(d) rotating both wing sections at pivot points located on the center section to bring outer ends of the wing sections forward until the wing sections lie substantially parallel to the tongue as seen in Fig. 3.

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Regarding claim 11, Hornung discloses an implement toolbar that is forwardly folding comprising:

- (a) a tongue seen as tongue (40) in Fig. 1,
- (b) a center section operably attached to the tongue at a substantially right angle, seen as sectional support beam (220 attached to tongue (40) in Fig. 1,
- (c) an inner wing section, operably pivotally attached to each end of the center section, seen as (54) and (56) in Figs. 1 and 3,
- (d) an outer wing section, operably pivotally attached to an outer end of each inner wing section, seen as (98) and (104) in Figs. 1 and 3,
- (e) folding means for rotating both wing sections at pivot points located on the center section to bring outer ends of the wing sections forward until the wing sections lie substantially parallel to the tongue as seen in Fig. 3.

Regarding claims 2 and 12, Hornung illustrates wheels (18, 20) in Figs. 1 and 3.

Regarding claims 3 and 13, Hornung illustrates wheels (28, 30) in Figs. 1 and 3.

Regarding claim 19, Hornung discloses an implement toolbar that is horizontally folding comprising:

- (a) a tongue seen as tongue (40) in Fig. 1,
- (b) more than three sections, seen as sectional support beam (22), sections (54) and (56), sections (104) and (98), and (102) and (96) in Figs. 1 and 3,
- (c) folding means for rotating both wing sections at pivot points located on the center section to bring outer ends of the wing sections forward until the wing sections lie substantially parallel to the tongue, as illustrated in Figs. 1 and 3.

Regarding claim 20, Figs. 1 and 3 of Hornung illustrate the toolbar as forwardly folding.

Regarding claim 21, Hornung illustrates the forward end of the tongue (40) adapted to be attached to the rear end of a prime mover in Figs. 1-3.

Regarding claim 22, Hornung discloses a hitch as the mounting plate (42) that connects the A-frame to tractor (44), as seen in Fig. 1.

Regarding claim 23, Hornung illustrates attaching a forward end of the tongue to a tractor for towing the implement forwardly in Figs. 1-3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hornung (US 3,791,673).** Hornung fails to disclose ground engaging wheels being located substantially at each extreme end of the outer wing sections. Yet Hornung discloses wheels (18, 20) and wheels (28, 30) for support. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toolbar of Hornung to include additional wheels at each extreme end of the outer wing sections, since Hornung already discloses the use of multiple wheels sets for support, and it has been held that mere duplication of the essential working

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parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

5. Claims 5-10 and 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 7/30/04 have been fully considered but they are not persuasive. The applicant points out that the Examiner is viewing Hornung's rear conduit members (98, 104) seen in Figs. 1 and 3 as the outer wing sections, and the applicant argues that these rear conduit members are actually braces for the actual outer wings (54, 56) and, thus, do not accomplish the intended purpose of the instant invention. Applicant has amended claims 1 and 11 to specify that the inner ends of the outer wing sections couple with the outer ends of the inner wing sections. The Examiner maintains the rejection and is unpersuaded, since the method and apparatus claims simply recite a tongue, center section, inner wing section, and outer wing section, and the pertinent pivotal connections therebetween. The Examiner is equating these wing sections with sections in Hornung, and no other "intended purpose" of the instant invention is relevant since Hornung has the recited structure and components of the method. Applicant has amended claim 19 to specify that the wing sections lie

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substantially linearly from the ends of the center section to their outer ends, which is also shown by Hornung in Fig. 3.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
9/27/04